

ITEM NO: \_\_\_\_\_

PREPARED BY: Susan Callison

COMMISSIONER: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_  
County Attorney

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**Resolution to Amend Shelby County Retirement System Plan A to Clarify Pension Calculations of Certain City-to-County Transfer Employees and County-to-City Transfer Employees, Including Participants Who Have More than One Transfer between County Service and City Service and to Clarify the Circumstances under which a Pensioned Participant's Pension Ceases to be Payable When He Returns to Work.**

WHEREAS, by resolution duly adopted on February 4, 1980, the Shelby County Commission adopted Shelby County Retirement System Plan A (the "Plan"), which was effective December 1, 1978; and

WHEREAS, by resolutions duly adopted on November 21, 1988 and on November 23, 1998, respectively, the Shelby County Commission adopted amendments and restatements of Plan A; and

WHEREAS, the Plan has been further amended since November 23, 1998; and

WHEREAS, there are several situations in which the pension entitlements and "County-to-City Transfer Employees" and "City-to-County Transfer Employees" should be more clearly addressed; and

WHEREAS, among such situations is the situation in which a participant has transferred between the City and County more than one time; and

WHEREAS, the purpose of the 1982 joint resolution between the City of Memphis and the County regarding transferred employees was to recognize service for each governmental entity for vesting purposes only and was not intended to adversely affect the pension costs of either governmental entity; and

WHEREAS, sections 4.11 and 4.11.1, dealing with the general rule that a participant may not continue to receive a pension from the Plan while actively employed but resumes his pension when his active employment again terminates, require amendment to recognize that a terminated participant who is reemployed as other than a temporary employee is required to become a participant in Plan C rather than Plan A; and

WHEREAS, the Shelby County Retirement Board recommends that sections 4.1.2 and 4.4.2 be amended as set forth in this resolution and that section 4.4.3 be added as set forth in this resolution; and

WHEREAS, a copy of the System's Actuary's actuarial impact letter with respect to the proposed amendments to Plan A is attached hereto as Exhibit 1,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that the Shelby County Retirement System Plan A be, and is hereby, amended as follows, effective July 1, 2008:

1. Section 4.1.2 of the Plan is hereby amended to read as follows in its entirety:

4.1.2 Participants Eligible for Public Safety Retirement - Table A-1. The provisions of this section 4.1.2 shall apply to Participants who Terminated on or before August 31, 2005 and shall also be applicable in calculating the Retirement Pensions of certain County-to-City Transfer Employees as described in 4.4.2.2. Otherwise, the provisions of this section 4.1.2 shall not apply to any Participant (including any Participant in Plan C who fails to complete his transition period and whose Pension is, therefore, calculated under the terms of this Plan) who Terminated on or after September 1, 2005.

2. Section 4.4.2 of the Plan is hereby amended to read as follows in its entirety:

4.4.2 County-to-City Transfer Employees.

4.4.2.1 In General. Notwithstanding other provisions of Article 4 to the contrary, if the Total Credited Service of a County-to-City Transfer Employee is at least equal to the Credited Service necessary to enable a Participant to receive a Retirement Pension under Article 4, then upon termination of his City employment he shall be entitled to the appropriate Retirement Pension. The Participant's Retirement Pension, expressed in terms of a Normal Retirement Pension, shall be the product of his Final Average Earnings from the City (not from the County) and (ii) the Benefit Rate from Table A based upon the Credited Service set forth on his County Transfer Service Certificate.

4.4.2.2 Appropriate Retirement Pension. The appropriate Retirement Pension to which the Participant is entitled under 4.4.2 shall be based upon the provisions of this Plan rather than the City Plan; for example, if the Participant terminates employment with the City at age 48 with 25 years of Total Credited Service, the Pension to which he is entitled under this Plan shall be a Deferred Vested Pension, subject to the provisions of 4.6. However, the appropriate Retirement Pension for a Participant whose transfer to the City was before September 1, 2005 and any of whose Credited Service with the County was Public Safety Service shall be a Public Safety Retirement, if he would have been eligible for a Public Safety Retirement had his service for the City been Credited Service for the County.

3. Section 4.4.3 is hereby added to the Plan to read as follows:

4.4.3 Multiple Transfers. If a Participant meets the definition of both a City-to-County Transfer Employee and a County-to-City Transfer Employee, upon his Termination his Pension entitlement shall be calculated as if he were an employee of the governmental entity from which he Terminated. Thus, regardless of how many transfers between City and County employment he has made, if he Terminates as a County Employee, his Pension entitlement shall be calculated under 4.4.1, and if he Terminates as a City employee, his Pension entitlement shall be calculated under 4.4.2.

4. Sections 4.11 and 4.11.1 are hereby amended to read as follows in their entirety:

4.11 Ineligibility for Benefits While Actively Employed. Except as otherwise required by law or in 4.11, no Participant is entitled to payment of a Pension from this Plan while he is an Active Participant in any Plan maintained by the System (whether or not then accruing service for a pension).

4.11.1 Suspension of Retirement Pension. Except as provided in 4.11.2, the Pension then being paid to any Terminated Participant who again becomes an Employee (whether or not he again becomes an Eligible Employee) shall immediately cease. Upon his Termination after such reemployment, unless his pension is then payable to him as a participant in Plan C, his Pension shall recommence as of the first day of the following month, and if he shall have qualified for additional Pension benefits under the terms of this Plan (or the terms of Plan C if he shall not then have completed his transition period in Plan C), his Pension shall be recalculated accordingly.

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A C Wharton, County Mayor

Date: \_\_\_\_\_

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Clerk of the County Commission

ADOPTED: \_\_\_\_\_